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REMARKS

In response to the Examiner's objection as to the drawing, Applicant has canceled claims 9, 16, and 20. Thus, no modification of the drawing is needed.

The title has been amended as suggested by the Examiner in paragraph 2 of the Office Action.

Paragraph 15 of the Specification has been amended to provide support for the language of claims 4 and 5 that the transition piece is produced or made from climate-regulating fabric.

As for the claim objections, all reference numbers have been removed from claims 1, 3-8, 10-15, 17, 18 and 19.

Claim 1 has been amended to more particularly point out the present invention. Claim 2 has been incorporated into claim 1 and the relationship between the spacer cushion pads and the transition piece is stated. Claims 2, 9, 16 and 20 have been canceled. Claims 1, 3-8, 10-15, 17, 18 and 19 remain for consideration.

Claims 1, 6, 8 and 10 were rejected as being anticipated by Etienne 4,811,727. With the amendments to claim 1, this rejection cannot be maintained. The stocking 1 of Etienne is comprised of flexible elastic fibers. There is a zone 6, which completely covers the toes (column 4 lines 4-7). Since the stocking of Etienne also addresses problems in the area of the Achilles tendon (column 4 lines 31-34), the stocking 1 has means of support embedded in its thickness. These means of support are two pads 10, 11, which are bean-shaped and which fill up the retro-malleolar cavity 12, 13 on either side of the body 14 of the Achilles tendon (column 4 lines 42-46). These pads 10, 11 fit closely into the anatomy of the two depressions besides the body 14 of the Achilles tendon (column 4 lines 50-53 Figure 1 and 2).

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Comparing the pads 10, 11 of Etienne with the two spacer cushion pads 24, 25 of the present invention, it can be clearly seen from the description and the drawings that the pads of Etienne are created to fill the depression besides the Achilles tendon. Therefore, the pads 9, 10, 11 of the Etienne level out the difference between the depressions and the Achilles tendon, which sticks out. On the contrary, the two spacer cushion pads 24, 25 of the present invention are designed in such a manner that they stand out distinctly relative to the transition piece 26, as it is described in paragraph 15 and shown in Figure 2. Therefore, the two spacer cushion pads 24, 25 of the present invention stand out relative to the Achilles tendon, whereas pads 10, 11 of Etienne try to fill the depression besides the Achilles tendon to create a regular surface.

The structure of Etienne is different from that of Claims 1, 6, 8 and 10. The present invention is not anticipated or suggested by Etienne. Claims 1, 6, 8 and 10 are in condition for allowance.

Claims 1-3, 6, 11 and 12 are not anticipated by Haanen. Haanen describes a stocking type ankle protector 1 for football players. The Haanen patent shows two cylindrical cushions 2, 3, which are fitted to the inner wall of the protector 1. The cushions 2, 3 are pushed into pockets 4, 5 (page 4 paragraph 2). These pockets 4, 5 are situated so that when the protector 1 is on the foot, the cushions 2, 3 lie between the ankle bone and the Achilles tendon (page 2 paragraph 3 to page 3 paragraph 1). Alternatively, the cushions 2, 3 are joined by a bridge piece 6 so that the bridge piece 6 and the cushions 2, 3 fit in a single pocket 7 at the rear of the protector 1 (page 4 paragraph 3).

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A comparison of the present invention and the Haanen patent shows that the protector 1 uses a similar principle to Etienne, which is described above. The cushions 2, 3 of Haanen are created to fill the depression besides the Achilles tendon, too. The cushions 2, 3 do not stand out with respect to the outer side of the sock, as described and shown with the present invention, but dip into the retro-malleolar cavity. On the contrary, the two spacer cushion pads 24, 25 of the present invention are designed in such a manner that they stand out distinctly relative to the transition piece 26. Haanen does not anticipate the invention as defined in claims 1, 3-6, 11 and 12. The claims are patentable and should be allowed.

Claims 4, 5, 7-10 and 13-10 were previously rejected as being unpatentable over Haanen in view of Lambertz. Applicant submits that present claims 4, 5, 7, 8, 10, 13-15, and 17-19 are patentable over the combination of Haanen and Lambertz. The deficiencies of Haanen have been noted above with respect to claim 1. Each of claims 4, 5, 7, 8, 10, 13-15 and 17-19 are dependent upon or based upon claim 1. Haanen fails to teach the combination in a sock of two spacer cushion pads and a transition piece, constructed and arranged such that the spacer cushion pads stand out distinctly relative to the transition piece. This deficiency of Haanen is not remedied by Lambertz. As for claims 4 and 5, the Examiner recognizes in paragraph 14 of the Office Action that Haanen fails to disclose the transition bridge or cushion comprising climate-adjusting fabric. Additional shortcomings of Haanen are noted in paragraphs 15, 16, 17 and 18. The combination of Haanen and Lambertz proposed by the Examiner would not result in the sock defined in claim 1. The claims dependent upon claim 1 are patentable for the reasons stated above with respect to claim 1. Claims 4, 5, 7, 8, 10, 13-15, 17, 18 and 19 patentably distinguished over the combination of Haanen and Lambertz and should be allowed.

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Favorable reconsideration and allowance of this application are solicited.

Respectfully submitted,

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I hereby certify that this paper and its attachments are being transmitted by facsimile transmission to Fax No. (571) 273-8300 to the United States Postal Service on July 2, 2007.

  
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